IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7473 of 2007

(CRIME NO. 251/2007 OF VELLAMUNDA POLICE STATION)

PETITIONERS/ACCUSED

1. C.H.MUHAMMED ASHRAF,
S/O.MOIDU HAJI, AGED 40 YEARS,
CHOMBALAN HOUSE, VADOCHAL, PANAMARAM POST,
PANAMARAM VILLAGE, WAYANAD DISTRICT.

2. SHAJI KURIAN @ JOSEPH KURIAN,
S/O.KURIAN, AGED 35 YEARS, MOOLAPARAMBIL
HOUSE, PANAMARAM POST, CHERUKATTOR VILLAGE,
MANANTHAVADY TALUK, WAYANAD DISTRICT.

BY ADV. SMT.CELINE JOSEPH

RESPONDENTS: COMPLAINANT

STATE-S.I. OF POLICE, VELLAMUNDA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7473 of 2007

Dated this the 6th day of December, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. Altogether there are only 2 accused. The crime has been registered on the basis of a private complaint filed by the defacto complainant and referred to the police by the Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The defacto complainant alleges that he had entered into a transaction for transfer of a vehicle belonging to him to the 1st accused. The 2nd accused had introduced the 1st accused and had also figured as a witness in the agreement for transfer. The crux of the allegation is that though the agreement for transfer was executed and the possession of the vehicle was handed over to the 1st accused, the 1st accused has not complied with the obligation to remit amounts to the financial company. On account of such default, the defacto complainant is put to great suffering, hardship and loss.

3. The learned counsel for the petitioners submits that the allegations are totally unjustified. Even if accepted the allegations can only reveal that there is a breach of a civil liability. The petitioners may, in these circumstances, be granted anticipatory bail, submits the learned counsel for the petitioners.

4. The learned Public Prosecutor does not oppose the application and in the circumstances to which I have made brief reference already, I am satisfied that the petitioners are entitled for issue of directions under Section 438 Cr.P.C.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 13.12.2007. They shall be enlarged on regular bail on their executing bonds for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 14.12.2007 and 15.12.2007 and thereafter between 10

a.m and 12 noon on all Mondays and Fridays for a period of one month. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 13.12.2007 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 13.12.2007.

(R.BASANT, JUDGE)

rtr/-